FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.163 OF 2006

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr. V.N. Tayade for the Petitioner.

Mr. V.V.Purwant for the Respondent No.1.

Mr.A.S.Shitole, APP. for the State.

CORAM : R.S. MOHITE,J.
DATED : 5/4/2006.

P.C.

1. Heard both sides.

2. Rule. By consent, rule made returnable forthwith.

3. Reply is filed on behalf of the respondent No.1 which is taken on record. The petitioner who is aged 70 years is the accused in Criminal Case No.2969/2001 pending in the court of J.M.F.C. Ulhasnagar. The case of the complainant is that he is the landlord

of some premises of which the present petitioner is a tenant. There was a dispute between the landlord and the tenant as according to the landlord tenant inducted some third party into the premises. The accused No.1 is the nephew of the respondent No.1. Consequently eviction proceedings have been filed and both the advocates state that the civil suit filed by the landlord has been dismissed. It appears that the present case arises out of civil dispute between the landlord and the tenant. The petitioner is 78 years old and he has filed an undertaking on 20.3.2006 which is taken on record stating therein that the trial may proceed in his absence and even his 313 statement may be recorded through his advocate Shri. A.L. Mulchandani. He has prayed for general exemption. In my view if the accused is ready and willing to appear in the criminal case through his advocate then there should be no impediment in proceeding with the criminal case in his absence. The

trial court would therefore, have liberty to summon him when the court desires his presence. In the circumstances, undertaking is accepted and the petitioner is granted general exemption from appearing in Criminal case No.2969/2001 unless his presence is required by the court. If the court requires presence of the petitioner at any stage of the trial, it will be at liberty to summon the petitioner. It is made clear that general exemption is only granted to the petitioner and not other accused. Rule is made absolute. Petition stands disposed off.

(R. S. MOHITE, J.)